

ASSEMBLY BILL

No. 374

Introduced by Assembly Member Wagner

February 14, 2013

An act to amend Section 1263.510 of the Code of Civil Procedure, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as introduced, Wagner. Eminent domain: compensation: loss of goodwill.

Existing law requires the governing body of a public entity to adopt a resolution of necessity, as specified, and send related notices before commencing an eminent domain proceeding. Existing law provides that an owner of property taken by eminent domain is entitled to compensation and imposes certain requirements on the owner in order to be compensated for loss of goodwill, as described.

This bill would further require the owner of a business to prove that there is sufficient evidence to permit the trier of fact to find that goodwill existed prior to the taking of the property.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1263.510 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1263.510. (a) The owner of a business conducted on the
- 4 property taken, or on the remainder if the property is part of a

1 larger parcel, shall be compensated for loss of goodwill if the
2 owner proves all of the following:

3 (1) The loss is caused by the taking of the property or the injury
4 to the remainder.

5 (2) The loss cannot reasonably be prevented by a relocation of
6 the business or by taking steps and adopting procedures that a
7 reasonably prudent person would take and adopt in preserving the
8 goodwill.

9 (3) Compensation for the loss will not be included in payments
10 under Section 7262 of the Government Code.

11 (4) Compensation for the loss will not be duplicated in the
12 compensation otherwise awarded to the owner.

13 (5) *There is sufficient evidence to permit the trier of fact to find*
14 *that goodwill existed prior to the taking of the property.*

15 (b) Within the meaning of this article, “goodwill” consists of
16 the benefits that accrue to a business as a result of its location,
17 reputation for dependability, skill or quality, and any other
18 circumstances resulting in probable retention of old or acquisition
19 of new patronage.

20 (c) If the public entity and the owner enter into a leaseback
21 agreement pursuant to Section 1263.615, the following shall apply:

22 (1) No additional goodwill shall accrue during the lease.

23 (2) The entering of a leaseback agreement shall not be a factor
24 in determining goodwill. Any liability for goodwill shall be
25 established and paid at the time of acquisition of the property by
26 eminent domain or subsequent to notice that the property may be
27 taken by eminent domain.